

Quid Novi



Volume XVI, No.19

UNIVERSITÉ MCGILL FACULTÉ DE DROIT
MCGILL UNIVERSITY FACULTY OF LAW

February 26, 1996
le 26 février, 1996

Judicial Bias and Racialized Perspective

Laverne Jacobs, BCL I

On Wed. Feb. 14, 1996, we were honoured to have visiting professor Richard Devlin share his thoughts with us on judicial bias and racialized perspective*. Devlin's critical and informative analysis was prompted by a recent Nova Scotia criminal case involving a young black man accused of assaulting a police officer and which was decided by the province's only black judge. The young man was acquitted, however, the police have been given leave to appeal on the grounds of reasonable apprehension of judicial bias. These grounds are based in part on the trial judge's comment that the Nova Scotia police have been known to overreact when dealing with non-white groups.

This case raises several difficult issues, many of which were addressed by Professor Devlin. Amongst these were the definition of judicial bias and tests used to determine its existence, the need for a culturally representative bench, classical vs. relationalist approaches to adjudication and the existence of racialized perceptions of society's majority and minority. Undoubtedly,

the central issue of the lecture was the paradox of having culturally representative judges on the bench yet penalizing them for expressing what they have observed through their cultural experience. One's cultural background will definitely play a part in determining the experiences s/he lives through. It can affect what one sees of the world and how one sees the world. Professor Devlin suggests that we need to move away from the traditional type of adjudication in which the judge is "blindfolded" towards a system in which it is possible not only to see the other but to come to terms with him. Unless you have lived similar experiences, it is difficult to place yourself in the shoes of the other -hence the need for a competent, culturally representative bench. Yet, the question still remains: once we have competent, culturally representative judges, should they be penalized for expressing observations made from their cultural perspective? If the situation between non-white groups and the police exists as Judge Sparks has described it, then this is what has happened to Judge Corine Sparks.

Professor Devlin's lecture

examined issues which are interesting, relevant to today's legal society and which definitely need to be discussed.

*Professor Richard Devlin is a visiting professor from Dalhousie University's Faculty of Law. His lecture: *We Can't Go On Together With Suspicious Minds: Judicial Bias and Racialized Perspective* forms part of the Annie MacDonald Langstaff workshop series.

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FEB 27 1996
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Announcements / Annonces

Notes from the Office of Undergraduate Studies:

Did you know you can VIEW YOUR GRADES on OASIS? OASIS is a function which allows you to update certain personal information and to view your academic record. Some students have expressed concern that it is sometimes difficult to understand the voice on MARS as it speaks grades. OASIS is on the system in your Computer Lab. Click on it sometime and find out what it can do for you.

It is never too early for a reminder ... SECOND TERM PAPERS AND ESSAYS are due 3:00 p.m., Tuesday 23rd April 1996, unless an earlier deadline has been established by the instructor.

Nor is it too early to remind you to UPDATE your ADDRESS for Early Registration. Mailing labels for your Early Registration Materials are generated on 28th March, selected by HOME/MAILING address. That is, your address label for Early Registration materials will be sent to your Home Address, unless the

Mailing Address is the only address on your record. You should use OASIS to update this information.

If you made notations of CHANGES AND/OR CORRECTIONS on your SECOND TERM COURSE VERIFICATION FORM, you are requested to read your email. Further action on your part may be necessary and this is the only method we use to notify you.

N.B. If you have asked to have your Basis of Admission changed from "Record of Study at ..." to read the degree earned, you MUST provide original proof that a previous degree was conferred. No change will be made without it.

International Women's Week

March 4-8 is International Women's Week. International Women's Day is Friday March 8 this year! Cette année nous fêtons la Journée Internationale de la Femme le 8 mars! On that day and the entire week preceding it Women and the Law will be sponsoring events throughout the Faculty. Vous trouverez tous les détails sur des posters, dans le prochain numéro du Quid, et même au courrier électronique!

Why not contribute to the festivities by

submitting something to the *Here's your chance to speak to a particular legal issue affecting women, to celebrate the accomplishments of women or just to express what comes to mind now that the day is approaching.* Quid? The deadline for the Women's Week Quid will be Wednesday February 28 at 10 a.m.

Alternative Careers Day Panel Discussion on Criminal Law

will be held Wednesday February 28 at 12:30 in the Moot Court.

Are you a student with a disability?

Would you be interested in discussing issues of accessibility and accommodation at the law school, or in forming a group that could work on advocacy issues? Come to a meeting, on Monday March 4th at 3:30pm. Location will be announced later. Please contact Nora Bednarski (LLB I) for more information.

Quid Novi is published weekly by students at the Faculty of Law of McGill University, 3661 Peel Street, Montréal, H3A 1W9 (Tel: 398-4430). Production is made possible by support of the Dean's office and by direct funding from the students. Les opinions exprimées sont propres aux auteurs. Toute contribution doit indiquer l'auteur ou son origine et n'est publiée qu'à la discrétion du comité de rédaction. This newspaper is printed on recycled paper.

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Next deadline/ Date limite:
Febr./Févr. 28, 1996 @ 10 am

New Law Library - Student Perspective

**Deanna Matzanke, LLB II,
New Law Library Student Committee.**

Following Dean Toope's article in the February 5th Quid, I would like to let the student population know what progress has been made from our perspective. It's been a while since anything has been communicated (mainly due to delays caused by the Referendum) and there is a lot of exciting news.

1) Despite the fact that we have yet to reach our \$10 million dollar mark, the University is letting us go forward with the project. As the Dean announced, the University has made the decision to hire the architect. This is an important step and should be accomplished by mid-March. The Building Program that was developed from submissions from library staff, faculty and students will be the central document used in hiring the architect.

2) To date, the total amount raised is approximately \$6.5 million and the Dean tells us that there are three pending large donations that could put us over the top. But even if that doesn't happen, there is a pool of about \$12 million unallocated funds from the \$200 million McGill wide campaign from which we have a good chance of receiving the necessary money.

3) The University structure for building projects is pretty rigid, but the Faculty has managed to create precedent by asking the University to include the Dean and Professor Foster on the Project Committee. This means we have direct representation where it counts. The Dean has pledged to bring decisions and proposals back to the Faculty Committee for approval. This is where the student voice will be heard. And so far, the results have been very encouraging.

4) The last meeting of the Faculty Committee on which both Charlene and I sit, met on February 5th to hash out the last few details on the Building Program before it gets finalized. This was a most promising meeting despite the fact that we had to slash 4000 sq feet off the proposed total square footage. The great thing is that we slashed almost 4400 sq feet and the extra 400 got redirected into group study rooms for students in the library!

5) The meeting had many other great revelations:

a) The University has decided to contract the management of the project out to professionals. Engineering did this and the project went smoothly without the University bureaucracy. This means we may get the building up before the National Program for 1998 graduates.

b) All of the qualitative aspects that were included in the Building Program have been approved. This means that the Law Library will be the foundation for creating a law complex that will connect all existing Faculty buildings on the west side of Peel street. This also means that all the recommendations concerning the grounds (like fixing the fence and creating a better entrance) will be included.

c) The computer lab in the library was a hot topic. The main thing that we managed to secure was a lab that will be accessible from both inside the library and outside! This lab will be in addition to the lab space that we currently have and will include around 30 computers.

d) Some of you may be wondering when the old brick apartment building is supposed to come down. The tenants must be given one year's notice before demolition can start. The Dean said that the first project for the Project Committee will be to get the letter out announcing the fate of the building. Hopefully, this will be accomplished by the end of April. That means, technically, that the contractors could break ground next spring. Cross your fingers!

e) The last topic involves access to the new building and the law complex in general. With the help of Nora Bednarski, Jennifer Ferguson, and Thea Swart, a submission was made to be included in the Building Program that advocates access as a central theme in the design of the building. The term connotes access for all without distinction. That means there should be no little steps or winding staircases with no elevators and no crowded stacks in the library.

6) Lastly, as most of you know, the student population at the Faculty is donating money from a slight fee increase over the next four years towards the new project. The money will amount to about \$100,000. The Dean has

assured us that we can designate where this money will be spent. Therefore, in order to solicit your opinions on the matter, a survey will be held during the first two weeks of March. So - keep your eyes open and let us know what you think!

All in all, I have to say that despite the delays occasioned by the Referendum, the project has taken on a life of its own and I'm slowly becoming convinced that I may see this building before I graduate.

If you have any questions or would like to submit an opinion, please contact any member of the Student Committee by phone or by email: Charlene Kavanagh, John Saywell, Margot Kane or myself, Deanna Matzanke.

Top 10

Steven Leitman, BCL II

Top Ten Reasons to Write a Top Ten List:

10. Because.
9. My mommy tells me it'll help me make friends.
8. Just finished factum; it's nice to write something without respectfully submitting it.
7. Chicks dig guys who write for the Quid.
6. If I get stuck for ideas I can just come up with a bogus topic and throw in a bogus number 6.
5. It makes me feel important.
4. When I'm writing, my left hand is free to clean out my belly button.
3. It prepares me for exams (top ten reasons to lift the corporate veil...).
2. What other excuse could I have to say that Dean Toope calls me in the night to tell me he's Darth Vader?
1. 3 words: Freedom of expression (gotta take advantage of those constitutional rights).

Hong Kong and Back in a Jiffy

Eddie Look, BCL III

Have you been to Hong Kong before? Ever thought of embarking on an Asian Journey... or interested in Asian Law?

I have recently studied in the Faculty of Law in the University of Hong Kong as a visiting student. For me, it was a fascinating experience even though I was born there and returned thrice since immigrating to Canada in 1977.

Several things are glaringly noticeable in Hong Kong. Fashion trends seem inescapable for many teenagers even if in poor taste. Brand name labels or designs are conspicuously shown in their choice of clothing and accessories including those small knapsacks so popular to date.

Hong Kong postcards may also remind you of the endless strips of neon lights, one bigger than another, stripping its salience. Shopping is no problem for those who enjoy convenience as shops are lined up almost everywhere especially in Tsim Sha Tsui and Mong Kok. However if you enjoy comparison shopping, it would be an endless ordeal given the numerous shops everywhere you go. Bargain prices could be found on "woman street" (literal translation) but watch out for the quality... what you pay is what you get sometimes. Malls often offer quite reasonable price if they are not brand names.

The public transportation system is comprehensive and includes ferry services, hovercrafts, light rail

transits, minibus, trains, MTR and double decker buses. Of particular mention is the mini bus (red or green). As the mini bus will only stop if you shout in Cantonese the place or street of disembarkment, failing to do so will likely take you to the terminal stop where everyone gets off. However, once you have ascertained the Cantonese words for where you regularly want to disembark, the mini bus will be very convenient especially after 1:00am when the rest of the public transportation system rests for the night.

Riding the Mass Transit Railway (MTR) is an experience in itself. Although it is efficient, the compartments are often overcrowded especially during rush hours. If you hear a "ding ding ding" sound indicating that the door is about to close, do step aside and away from the main entrance area. This precaution would avert someone else from pushing you into involuntarily and practically kissing someone nearby unexpectedly or vice versa. With so many eager commuters wanting to get home, the "ding ding ding" sound often elicits a pushing action to get in at any cost.

Double decker buses old or new alike roam the streets at impeccable efficiency, picking up passengers off the road rather than pulling up to the stop (and do they really care about liability?). These dinosaur size buses usually give bumpy rides even in the absence of pot holes so prevalent in Montreal.

Probably what I like most about Hong Kong is the dominance of modern architectures in the Central

District. The Bank of China building and Hong Kong and Shanghai Bank of China building reflect the vibrant nature of the city. In particular, the Hong Kong Bank building was designed with a metal frame which supports the entire building without any foundation for the physical floors. The floors of the building could be pulled out like drawers to be relocated elsewhere.

Yes...yes... I did go for an academic reason as well. The University of Hong Kong is quite similar to McGill. The substantive content of the courses offered focuses on the Hong Kong legal system and the People's Republic of China's legal system in light of the 1997 resumption of former by the latter.

The Law Student Association in HK University is slightly different and takes a compulsory approach to participation by its members in activities. For instance, all students were required to dress semi-formally on orientation day. To my fashion surprise, I, not being informed about this requirement, proudly sported my jeans and T-shirt.

I made quite several friends while I stayed at the University but I definitely think that knowing Cantonese goes a long way to making that happen as most students do not speak fluent English, albeit they write well.

So quick and four months is already over and I am back at McGill. If you do want to know more information about Hong Kong, feel free to drop me a note in my e-mail account : look_e@lsa.lan.mcgill.ca.

***** Faculty Ski Trip *****

Nicole Calleja (LLB IV)

Visiting Rotary Ambassadorial Scholar

The Ski trip was the weekend of February 9 - 11. "Faculty" Ski trip is actually a bit of a misnomer since the only members of the Faculty to attend were myself and Danny Romano (the organiser - LLB IV). So I thought all you pikers! should be informed of the great time you missed out on! We left on Friday

afternoon. A couple of members of the McGill Outing Club caught a lift up with us, and I dragged an Australian friend of mine (Min) who was in town for a few days along too. Since neither Min nor I had ever skied before, it was with considerable trepidation the we hit the slopes for some night time ski lessons on Friday. But thanks to our great instructor (Danny) in two hours we were pros! Furthermore, the lessons were gratis, and

we got a great deal on our ski hire - it really helps when you are in with the management! So aside from being a fun weekend, it was really inexpensive. (We stayed at the McGill Outing House in the Laurentians, just 10 minutes from all the ski hills, so we were close and accommodation was cheap, just \$10 for the weekend.)

(Continued on page 5)

(Continued from page 4)

We arrived at Mont Gabriel by 8am on Saturday morning. Danny was busy giving ski lessons until midday, so Min and I set to work on mastering the two beginner's slopes. The weather was perfect - very bright, sunny and warm. After lunch, Danny and another instructor took us down some intermediate slopes, which enabled me to perfect my face plant technique and Min to practice falling off the chair lifts! Although I'd heard that downhill skiing was a sport for 'beautiful people', the fashion conscious and those who want to be 'seen' - I found that people were really friendly and totally unpretentious. In fact the whole atmosphere of the place was just great. But by 4pm we were exhausted and ready

to head back to the McGill Outing House. We made an amazing Lasagne and some garlic bread, ate, and then went ice skating. There is a rink almost in the backyard of the Outing House, and we were the only people on it.

On Sunday every muscle in my body ached, so after feasting on pancakes in front of the fire, we grabbed some cross-country skis from the equipment room and headed out for a few hours. It was warm, but snowing quite a lot. The fresh snow made it very easy to glide along and work some of the tension out of our stiff muscles. The view from the trails was absolutely breathtaking and we took lots of photos. We got back around 6pm on Sunday night, feeling very

relaxed and ready to face another gruelling week of law school.

So, you all missed out big time - especially the exchange and visiting students who may not have had a chance to try skiing before. If you get the opportunity to go - seize it - it is well worth the time and money.

1 'Piker' is an Australian term meaning to opt out or pass up an opportunity to have a good time, usually in favour of doing something really boring, like study.

Verbal Incontinence in first Year Class Reaches Epidemic Proportions

By Neil Peden, BCL I

(This article might make me unpopular, but somebody had to write it.)

Why are so many people apparently unable to be quiet for as little as an hour at a time? Is it some sort of disease? Possibly a virulent strain of verbal diarrhea contracted from lab monkeys? A mass affliction of Touret's Syndrome, perhaps? Are the drinking fountains spiked with sodium pentathol? Maybe you are all speaking in tongues--who am I to quench the fires of religious fervour? I know, it is a protest over the insane (and probably unconstitutional) idea that students should be expected to sit silently for a class that may run as long as NINETY MINUTES! Somebody call Amnesty International!

Don't get me wrong. No one ever accused me of reticence in the elocution department. My middle name is "filibuster." But if you are bored in class, do you have to talk? Whatever happened to doodling? It's fun, it's relaxing, and

best of all, it's QUIET. You can draw anything you want: dogs, cats, family members, cars, cheese, naked people, satanic symbols, Stonehenge-to name only a few. Bring coloured pencils if you must.

Ah, you say, but what if I don't understand something the professor is saying? If you have a question, there is a two-step test to determine the correct course of action that is easy to apply:

1) If the question is reasonable, put up your hand and, when recognized by the professor, ask it confidently in a clear and even tone.

2) If the question is redundant, inapplicable, or otherwise unsuitable, divert yourself momentarily by some means: picture the professor naked, or

imagine the sound of one hand clapping. You may not become aroused, or achieve satori, but with any luck you will forget the question.

Note that neither case involves you turning to the person next to you and initiating a conversation on the nature of delictual liability, the stock market, or why Pavel Bure is a stupid name for a hockey player, although I would be happy to discuss any of these issues with you over a beer at Thompson House--especially if you are buying.

It is not ALL the students' fault. I think part of the problem is the attitude of the administration. Did you hear the stern warning not to eat in the library? If you get caught, they will ask you to STOP. I don't know about you, but I'M scared. I hear that if you don't stop when they ask you they can get really crabby. Only a few of the professors have even mentioned talking in class, although most seem to be bothered by it at times (as do many of the students) if you look closely enough. I suspect that they are simply too embarrassed to have to lecture adults on manners as though they were children. I, on the other hand, have no such compunction.

Droit de la santé à l'Université de Sherbrooke

Jean-Marie Lavoie, directeur du programme de maîtrise en droit de la santé.

L'Université de Sherbrooke offrira en septembre 1996 ses programmes de maîtrise et de diplôme en droit de la santé. Le droit de la santé couvre l'ensemble des règles juridiques ayant trait à la santé physique, mentale et sociale de l'être humain. Il s'intéresse aux bénéficiaires ainsi qu'aux personnes qui ont à prodiguer des soins de santé. Son importance se confirme chaque jour davantage en raison de l'évolution de la science et de la technologie. Il s'agit d'un domaine d'études encore peu exploité et en pleine expansion.

LA MAITRISE (45 crédits)

Ce programme de 2e cycle comporte dorénavant deux cheminements, l'un dont l'accent est placé sur les cours et l'autre sur la recherche. Il vise à former des spécialistes qui connaissent à fond les aspects légaux, sociaux et administratifs de l'organisation et du fonctionnement du secteur de la santé et qui peuvent, le cas échéant, participer au développement des connaissances dans ces domaines.

LE DIPLOME (30 crédits)

Ce programme de 2e cycle comporte les mêmes activités pédagogiques que la maîtrise de type cours à l'exception de l'essai.

Conditions d'admission:

Grade de premier cycle en droit ou dans une discipline ou un champ d'études approprié avec une expérience jugée valable et pertinente dans le domaine de la santé et des services sociaux (ou expérience jugée valable et pertinente en recherche pour la maîtrise de type recherche).

Régime des études

Maîtrise avec accent sur les cours: à temps complet et à temps partiel. Maîtrise avec

accent sur la recherche: à temps complet. Diplôme: régime à temps complet et à temps partiel

Demande d'admission

La date limite pour le dépôt d'une demande d'admission en vue d'une inscription au trimestre d'automne est le 1er mai 1996.

Pour plus de renseignements:
Programme de maîtrise en droit de la santé

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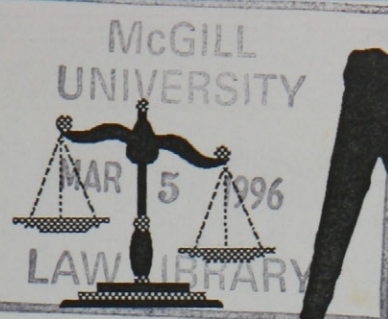
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McGILL UNIVERSITY FACULTY OF LAW le 4 mars, 1996

Litany for Survival: The Life and Times of Audre Lorde

Janet Oh, Nat IV

And when we speak we are afraid
our words will not be heard nor welcomed
but when we are silent
we are still afraid
So it is better to speak remembering
we were never meant to survive.
- Audre Lorde, "Litany for Survival"

This past month of February was Black History month. As part of the celebrations, the National Film Board of Canada showed a series of movies celebrating those people who have contributed to black history. A friend and I decided to take part and went to see "Litany for Survival: the Life and Times of Audre Lorde", which, as the title suggests, recounts the story of Audre Lorde, a Black lesbian feminist poet.

The film traces the development of events in her life which go on to influence her life and her work, from leaving home at a young age and living in poverty in Harlem, to working as a librarian, to participating in political events during the 1960s and beyond, to developing her poetry and teaching it to others, to getting married and having two children, to divorcing and coming out as a Black lesbian feminist, to dealing with her cancer and learning to work within those physical constraints. This short list does not do justice to the contributions made by Audre Lorde to society both through her literary work and her political activism. Nonetheless, in less than two hours, we the viewers were given the opportunity to follow her life and through the interviews with her, her friends and colleagues, and scenes of her reading her own poetry, we were given a glimpse of Audre Lorde as she saw herself - Woman, Mother, Warrior, Black, Lesbian, Feminist, Political Activist, and Poet.

In 1991, she was named (by then governor Mario Cuomo) the State Poet for the state of New

York. In her acceptance speech, she remarked how ironic it was that she, who had so often criticized the state, had been chosen to be the state of New York's poet for the years 1991 to 1993. This, she stated, was evidence of the fact that we lived in times of wild contradictions. Indeed, Audre Lorde was not just a poet, but she was equally a political activist. This political activism characterized much of her work such that the phrase "the personal is the political" seems apt to describe the work and life of Audre Lorde. As one of her colleagues pointed out, Audre Lorde had a certain genius and was capable of bringing together the poetic and the political together to help the reader understand her messages.

Towards the end of the film, we see the effect her cancer has had on her physically. In fact, perhaps one of the saddest comments she makes is that with the loss of her once powerful and mighty voice due to her cancer, she lost the ability to hear herself reading back her own poems. For Audre Lorde, her voice was an integral part of experiencing the poetry she wrote. After hearing her read her poetry throughout the film, we can understand what a sad loss this really is.

Very few of us in law school are given the opportunity to read her poetry or her other works. For those of us who take Feminist Legal Theory in our upper years, we are, I think, fortunate to be introduced to some of her seminal works, such as *Sister, Outsider*, in which she writes that "poetry is not a luxury. It is a vital necessity of our existence."

Why should we as law students read poetry, you may ask? What does poetry have to do with the legal profession? For those who were present at professor Roderick MacDonald's talk on "F.R. Scott's Constitution", you will understand that poetry can have a greater influence on us as members of the legal profession than you might

think. Indeed, professor MacDonald used the phrase "constitutional reason and constitutional rhyme" to describe F.R. Scott's vision of the Canadian Constitution. Scott was once upon a time Dean of our Faculty, a great constitutional thinker, and one of the greatest Canadian poets of this last century. The message, therefore, is this: our challenge as jurists is not merely about applying the black letter of the law; it is also about searching for creativity in finding our legal solutions and looking for ways to use our imagination to see how we can make the law work.

As we celebrate International Women's Week, I am grateful that my legal education included readings from poets such as Audre Lorde who in many ways, has left a greater impression on the way I look at law than Shelley's Rule ever did. In Audre Lorde's own words, "Poetry is not only a dream and vision; it is the skeleton architecture of our lives. It lays the foundations for a future of change, a bridge across our fears of what has never been before."

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Announcements / Annonces

Notes from the Office of Undergraduate Studies

We still have a box full of papers for courses written in the first term. If you want yours, I encourage you to come to the OUS to retrieve it/them before Wednesday 20th March. We have papers for: **Aboriginal Peoples; Commercial Transactions; Communications Law; Comparative Medical Law; Computers and the Law; Intellectual & Industrial Property; Policies, Politics; Practical Writing; Protection of Minorities' Rights; Real Estate Transactions; some Research Seminars; Science, Technology and the Law; some Term Essays.** Papers not picked up by Wednesday 20th March will be recycled.

LEGALITY BITES - SKIT NITE 1996

All aspiring actors and singers: Skit Nite is less than three weeks away!!! Auditions for those of you interested in the theme skits (i.e. those written by our fabulous and extremely talented Skit Nite

writers) are this Thursday and Friday. No preparation necessary unless you're a singer - then you may want prepare a little jingle. If you're interested just hit reply and we'll get in touch with (especially you singers!).

Auditions will start around 5:30 (after you have a chance to grab a bite and a free beverage at Coffee House) and we'll go from there. If necessary, auditions will also be held on Friday - **WE'LL KEEP YOU POSTED.**

Anyone interested in preparing or acting in their own skit, auditions will be held next week - watch the notice board. **START PRACTICING:!** For further info., contact Dominique Hussey, Stephane Duranleau or Jennifer Ross.

Women's Health Matters II

a conference about women's health issues, will be taking place at McGill on March 29th. The conference will run all day and will be composed of a panel presentation -- the Medicalization of Women's Health -- and workshops in the morning and the afternoon. Many of the workshops will be of interest to those who are exploring the legal aspects of health issues. Topics include:

immigrant women's experience of healthcare in Canada, women and HIV, New Reproductive Technologies. Prof. Shauna Van Praagh will be running a workshop on the Legalization of Women's Health. Admission to the conference is free, but you must preregister to participate. For further information (and to register) contact the McGill Centre for Research and Teaching on Women, or talk to Nora Bednarski (LL.B. I).

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Next deadline/ Date limite:
March 6 mars, 1996 @ 10am

Editorial

Emmanuel Castiel, BCL III
Editor-in-chief

Some disturbing things have been said in the Quid Novi recently. We just have to look at this year's Valentine's Day Quid issue to notice this. In one article, the Assistant Dean of our faculty has been called a "fart" and in a valentine message, the author compared a student to "Nubian love slaves stolen by pirates" (please read *Response to Blackbeard* on page 5). Both of these comments were made in fun but were of poor taste.

"In that case, Mr. Editor, I've been asked, why didn't you refuse to print these messages?" The answer to that question is because I was following the Quid Novi's editorial policy. The real question then is: "What is your policy and is it a good one?"

I'm not a fan of Political Correctness. Instead, I believe in what I call "tactful honesty". I believe it is important to voice one's opinion without, however, doing it in an insulting fashion. And if someone has an opinion that is not mainstream and that might shock some people, it should still be published. Further, if somebody expresses, purposely or unporpusely, an insulting or hurtful opinion, it should not be pushed under the rug. On the contrary, it should be put in the spotlight for all to see. Keeping a lid on it will only give people a false sense of hope that "all is right with the world". I don't want to live in a world where people cannot say what they feel for fear of disagreeing with the majority. And I certainly don't want to go through life willfully blinding myself to what's going on around me.

That in a nutshell is my opinion. Since I am the editor-in-chief, it has become the Quid's policy as well. So even though the editorial committee reserves itself the right to not publish an article, it simply hasn't exercised that right very often. Is this policy a good one? I believe it is. The Quid is (or should be) a newspaper where ideas flow freely. It's a newspaper made up mostly of opinions and debates. And where better than in a law school to have such a policy?

I'm sure a lot of people don't agree with me. What can they do about it? They can be politically correct and not create a fuss. They can wait until a new person becomes editor at the Quid. Or, even better, they can send me a tactfully honest article criticizing my opinion. You chose.

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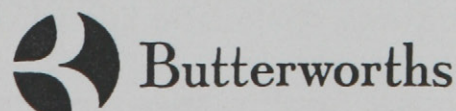
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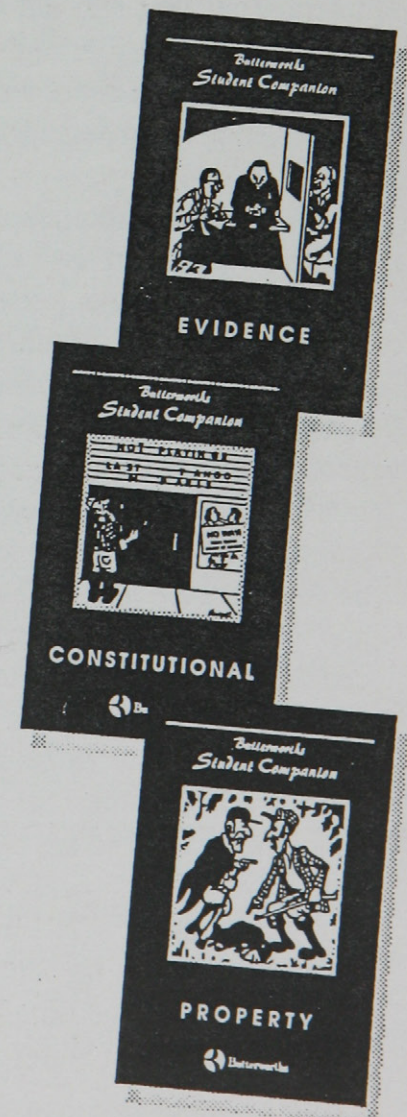
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Life Without Friends

Gerard Sasges, LLB I

I have a terrible secret. I'm one of eleven people in North America who don't like Friends. That's Friends the program, not friends the companion. Sure, I'd give my left grandmother to medical science if it would get me a date with Jennifer Aniston, but that's beside the point. I don't like what the show and its popularity seems to say about my generation.

No program in recent memory has become such an instant cultural icon. Countless Thursday nights are organised around the 7:30 - 8:00 timeslot. The show's stars smile winningly from magazines racks in every depanneur. The show has its own album, for god's sake.

There are two possible reasons for such popularity: 1. it's so incredibly entertaining that two out of three people would rather watch Friends than have sex. 2. it strikes some chord with people in the twenty-something demographic.

1. Two out of three people would rather watch Friends than have sex.

Not a single person in a recent survey preferred watching Friends to having sex. Granted, asking yourself the same question 714 times may not be many people's idea of a survey, but you have to remember that the sex I've got for comparison has been described variously as "mediocre", "not exactly unpleasant", and "that's okay, honey, we can just cuddle." Besides, who cares if two out of three people would rather watch Friends? - according to the Globe, one out of three people would rather eat a Snickers bar than have sex. Who are these people? Do they have lives? And why aren't they eating a Snickers WHILE having sex? I mean, what could be better? - chocolate and sex at the same time, not to mention peanuts and peanut butter nougat.

Leaving aside for the moment all the fun things you can do with nougat, the

truth is that Friends isn't very funny. Gee that Joey really is dense. Hee hee. And that Phoebe, boy, isn't she kooky?

And that Ross, what a great guy - look at him pine for Rachel. Oh, no, now Rachel's pining for Ross. Oh, no, now Ross is back to pining for Rachel. I'm sorry, but the storyline of late is lame, lame, lame. The funniest moment all season was Jean Claude Van Damme offering to crack a walnut with his butt - in the words of the immortal Homer J., it's funny 'cause it's true.

2. Friends says something about our generation

Instead a large part of the program's success lies in the fact that most of us would kill to be a Friend: they're improbably beautiful, they're witty, they live in superb apartments in New York, they have all the funky but tasteful consumer goods that are essential for true happiness: why would you aspire to anything more?

It's easy to overlook the fact that the Friends are boring. They don't do anything. They're self-absorbed. They spend most of their time in their lovely apartment, talking about themselves. Sometimes they go to the Central Perk to drink lattes and, you guessed it, talk about themselves.

So you can't get a job, Monica. So you haven't had sex this decade, Chandler. So your ex-wife's a lesbian, Ross. Get over yourselves. Move on. You don't see me whining about the list of my partners who've since questioned their sexual orientation. But Friends can't move on. They're too content in their own comfortable little universe of sarcasm and seventies re-runs. The message for all us twenty-somethings is clear: boring is stylish, complacency is hip, and cynicism is cool.

Now I like a good latte as much as

the next person, but I've always suspected that there was something more to life. I may not be improbably beautiful, but I can discuss issues of greater significance than my last trip to Bloomingdales. I leave my apartment occasionally. I go to concerts. I even go to plays. I worry about becoming a boring person, about not travelling enough, about not meeting enough people and not seeing enough things.

I like to think that these concerns are common to most people my age. But sometimes on Friday mornings when I hear people quoting dialogue from the latest episode or exclaiming that they just can't wait for Ross and Rachel to get together, I'm not so sure. I wonder if these people are aware of the values they internalise when they identify with the witty Chandler or the lovely Rachel. I wonder if these people are aware that Chandler and Rachel aren't real people. But mainly I wonder why these people don't do something better with their time. Like watch 90210. Now THAT'S quality television.

Response to Blackbeard

Melissa Redmond, BCL I

Master Blackbeard,

My sister-friends and I were lolling about in the harem when we started talking about the good old days: when servitude was sexy and fear for your life didn't interfere with your ability to love the *dashing and dapper* Corsair. Oh, I can still hear the palpitations of my captive heart. Yup, my girlfriends and I had to agree, there's nothing like Black History Month and the recent re-release of Alex Haley's *Roots* to get you thinking about how things used to be.

So there we were lamenting the fact that the good-old days of out and out slavery were long gone for us. "Do you remember?" we asked. "Do you remember when only the most beautiful of Africa were stolen by pirates and made love slaves?" By Isis, those were the days!!

When romantic love and bondage walked hand in hand along the decks of slave ships. Ah, there was nothing like moonbeams over the Atlantic to make you see triangular trade in a whole new light. Coupled with the moans of the human cargo in the vessel's hold; I gotta agree with you, Blackbeard, we're on our way to ecstasy.

And so, if I may, I'd like to thank you on behalf of all the other Black women in the faculty for the message you sent in the recent *Love Quid*. You've given us much to think about. Not only were you able to divorce your references from any historical context they might have enjoyed, but you were also able to superimpose slavery and romantic love. Captain Hook, what a peg you found to hang your love banner from.

Perhaps I should've been able to take this more in stride. I don't know,

maybe the time of year has got me grumpy. I have to admit this warm weather isn't quite enough to keep me from longing for the warm shores of the Motherland. Perhaps it's just that I don't feel that I should be *subject* to your cursory dismissal of a vital part of my history. Maybe, I'm just pissed off about imagined barriers and misconstrued obstacles. Perhaps, despite my community's seemingly innate ability to entertain and be entertained, I have no sense of humour and I just don't *get it*.. There's a lot that I'm unclear on...like what might have been running through your swash-buckling mind when you composed your message of "adulation". But one thing I do know, Blackbeard, after reading your message, I had to leave the harem, Babe.

Melissa Redmond, former Nubian love slave.

Oscar the Grouch

Daniel Ages, LLB I

The fix is in, again. A year ago, when the mild-mannered, but well-meaning, *Forrest Gump* walked away with Best Picture honours at the Academy Awards, leaving a more-deserving *Pulp Fiction* in its genteel wake, I cried foul. How could Hollywood prize sentiment over scintillation, succumbing to the candied graces of the "feel-good" *Gump* family values and ignoring the sonic boom that Quentin Tarantino had unleashed upon American cinema with his fascinating *Fiction*?

But, as this year's list of Best Picture nominees attests, Hollywood has aken a step further back into the sentimental mush, citing a quartet of films -- *Apollo 13*, *Babe*, *Braveheart*, and *Sense and Sensibility* -- that merit little or critical recognition than tepid conversation around the faculty *Coffee Houses*. The best that can be said about these cinematic representations of a lunar mission gone awry, a misunderstood porcine, a wayward warrior, and an utterly-repressed Victorian woman is that they were all decent,

uplifting films, worthy of their eight-dollar admission fees, but not the eternal celebrity attached to the engraving on an Oscar statuette. Even the best of this year's nominated lot, *Il Postino*, the touching tale of a lovelorn postman, carried a great deal of emotional baggage on its acclaimed shoulders. (Its star, Massimo Troisi, died of heart failure two days after the production had been completed.).

This year's Best Picture list looks and feels like a kinder, gentler substitute, a compromise between the hard-edged, uncompromising films that truly deserve Oscar recognition -- *Leaving Las Vegas*, *Dead Man Walking*, *Nixon*, and *Seven* -- and the myriad of overrated melodramas that continue to pollute the neighborhood theaters -- *The American President*, *The Usual Suspects*, *The Bridges of Madison County*, and *Twelve Monkeys*. It is almost as if Hollywood has caved in to the political furor over the prevalence of sex and violence in film and television and censored itself with its own V-chip. V as in vacant, vanilla, and vasectomy. Why bother to

nominate great films about prostitutes, alcoholics, murderers, and crooked politicians when it's only going to further upset the applecart. Instead, let's Newter the nominees.

Granted, Mike Figgis (*Leaving Las Vegas*) and Tim Robbins (*Dead Man Walking*) were given their due in the Best Director and Best Adapted Screenplay categories, Oliver Stone was nominated for his *Nixon* screenplay, and Nicholas Cage and Elisabeth Shue (*Leaving Las Vegas*), Sean Penn and Susan Sarandon (*Dead Man Walking*), Anthony Hopkins and Joan Allen (*Nixon*) were all recognized for their outstanding performances, but that is not nearly enough. It is time for a little more sense and a lot less sentimentality. Roast the pig, give Mel Gibson some pants, find Emma Thompson a man, and call off the mission. Then, Hollywood, do yourself a favour, on the night of the Academy Awards, if the Best Picture envelope is opened and it doesn't read "*Il Postino*", run for cover, because I'm gonna be mad as hell, and I'm definitely not gonna take this mush anymore.

Just What CAN They Ask You in an Interview?

Sarah Lugtig, LLB III
Co-Chair McGill Women and the Law

"Are you married? Do you plan on marrying? When?"

"Do you have any children/dependents?"

"Who's going to look after your children while you're working?"

"Do you plan on having more children?"

"Do you live alone?" (asked of a lesbian listing extracurricular involvement in a gay and lesbian association)

"How would you feel prosecuting an Indian for drug trafficking?" (Asked of a First Nations woman)

"How would you deal with an aggressive male lawyer who was Chinese?" (Asked of a Chinese-Canadian woman?)

"How will you get to work in the morning? Do you need a lot of doctor's appointments? Can you handle the same work hours as everyone else?" (Asked of a woman with a disability)

"How old are you?"

Do these questions sound familiar? No, I'm not quoting obnoxious relatives at recent holiday dinners. (You know the ones who are always dying to tell you their latest "dead lawyer" jokes.) Unfortunately, I drew them from reports such as *Gender Equality in the Justice System*, a report by the Law Society of British Columbia (1992), and the Canadian Bar Association's (1993) *Touchstones for Change: The Report on Gender Equality in the Legal Profession* (otherwise known as "The Wilson Report") as well as stories by friends, faculty and professionals about experiences of women in articling interviews. In fact whether in the high pressure setting of our own interviews or our dreams the night before them, these supposedly innocuous inquiries are all too familiar as are the personal dilemmas and anxiety that they create. Such questions seek information about us which is irrelevant to our ability to perform the duties of our job, yet we know that our

answers may well affect our chances of securing an articling position.

As you likely know, the type of information sought in such questions relates to various grounds of discrimination in hiring, discrimination which likely contravenes the human rights legislation governing the actions of the particular employer. In most cases, this will be the province's human rights act or, in Québec, *La Charte des droits et libertés de la personne*. (For the Federal Government, the *Canadian Human Rights Act* applies.) All of these pieces of legislation contain provisions prohibiting discrimination in hiring on a variety of grounds. *La Charte* in Quebec, for example, includes the following: gender, race, colour, pregnancy, language, political conviction, ethnic or national origin, religion, age (except as provided in law), social condition, family/marital status, disability and the use of aids designed for people with disabilities, and sexual orientation. (Arts. 10 and 16)

Questions which have the result of determining such characteristics of an applicant are discriminatory and you do not have to answer them. You may think it is best to respond, whether truthfully or not; however, in many cases you cannot be sure what answers they are seeking. Avoiding the question entirely is the only way to ensure that your answers and thus personal characteristics will not be used in determining your chances of getting a job.

So what do you say? How do you deal? A very simple, "I understand I'm not required to answer questions regarding my [age, marital or family status, personal life] in this interview. If you are concerned about my job performance, let me tell you about my experience at" may very well end the

matter. These are, after all, lawyers who must have some knowledge of human rights protection. A less direct response might be, "I'm not sure I understand the question. Are you concerned about my skills? experience? ability to handle difficult situations? As my resume indicates, I have demonstrated such abilities in my involvement with X club or my position as Y." I am sure there are many other ways of either addressing or deflecting such questions. You may want to practice with friends to come up with responses which make you feel comfortable. (That's what I did.)

Such questions may be more difficult to address in a casual or social environment, such as the "cocktail party". Many people seem to find these events anything but casual or social. In fact they may constitute an environment which lacks the standards or norms governing job interviews and thus makes students feel even more vulnerable. Questions about family or marital status are most likely to arise at such events, as lawyers generally engage students in "small talk". The pressure to answer such questions may for that reason also be greater. Possible responses? A more casual approach may be easiest given the context. In the circumstances you may be able to ignore the question (particularly if it is indirect) and ask another one in place of answering. "Actually, I wanted to make sure I had a chance to talk to you about" Another option may be to simply say that you've made it a policy not to discuss personal matters throughout the articling hiring or recruiting process. Again, follow this up with a question meant to divert the conversation to a more appropriate subject. If you're comfortable with a more direct approach, how about "Given that this function is part of your firm's recruiting process, I prefer not to discuss [marital status, my personal life etc.]. I'm sure you understand."

(Continued on page 7)

The Joys of Skit Nite

By: David Lisbona

Last year, I had the enviable task of participating in our faculty's greatest fundraising and community-oriented event, our annual Skit Nite. Now, for most of us, the pleasures of Skitnite last for all of about two hours on a night in mid-March, during which time, you might hear such comments as "I didn't know he/she had that much talent?!", or "Wasn't that impersonation of (any professor's name) terrific?!", or out of the mouths of first years, "Which professor was that supposed to be?" The true value of Skit Nite is far from limited to the talents of the individuals who frequent Chancellor Day Hall, rather it is the tremendous contribution that we make to the Montreal community.

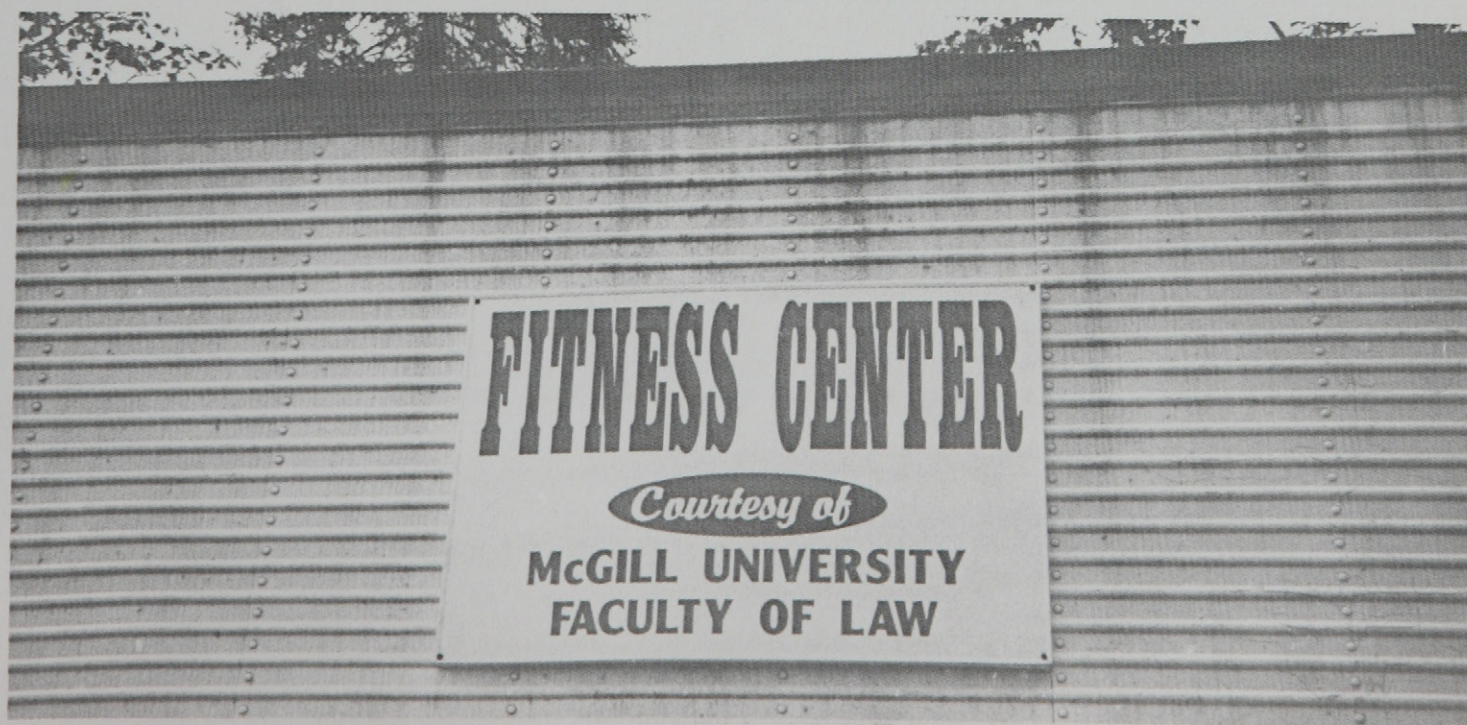
Beginning this year, there are four very deserving beneficiaries, the *Old Brewery Mission*, *Chez Doris*, *Le Bon Dieu dans la Rue*, and newly added *Share the Warmth*. Four incredibly deserving downtown-area organizations who service different areas of the community truly benefit from our efforts.

Some of you may remember what Adrian Bercovici, Director of the *Old Brewery Mission* said in his address to the audience during Skit Nite. He informed us that the proceeds of Skitnite were being used to finance the erection of a weightlifting centre at the Mission's Camp, *Camp Chapleau*, and he extended an open invitation to visit the camp and our facility. Well, I accepted his offer, and for the purposes of the ultimate political photo op, I informed him that I would present our cheque to his organization in front of the "McGill Faculty of Law Weightlifting Centre". True to my word, I headed up north during a hot July morning to see our monument to the Laurentians. *Camp Chapleau* is a sessional camp for underprivileged kids, single mothers, and homeless men, all of whom spend two weeks at a time at the camp. I happened to be there during the kids camp, and the way Adrian explained it to me, the camp provides each child with at least two weeks of freedom, enjoyment and a true camp experience regardless of their backgrounds. Most of the facilities have been financed through community donations. As I headed down the path to the beach I came across our little piece of fitness heaven at *Camp Chapleau*. Take it from me, we have quite a bit to be proud of. The Weightlifting Centre is one of the most often used facilities, not only among the boys, but to my pleasant surprise among the girls as well! There are 5 exercise machines and a large assortment of incrementing hand weights. The facility itself is a former C.N. trailer, and beside the front door hangs a large sign that reads "Fitness Centre courtesy of the McGill Faculty of Law" (see below). This was a proud moment, and it made all of the many hours of fundraising worthwhile! I am pleased to announce that this year's project is the creation of a much needed basketball court on the girls side of camp.

Following my experience at *Camp Chapleau*, I invited other charities to submit applications to be considered for Skit Nite funding. We have fortunately reached a point in our fundraising efforts where we could be helping many more charities. As well, I have asked each charity to submit a list of projects or services to which we can contribute directly. Through this process, we have been able to add *Share the Warmth* for this year.

I encourage everyone to be involved and to attend Skit Nite. If every student is able to raise \$25 in pledges from parents, friends, or businesses, we will have raised \$11,000! (Please see form on back). Take it from someone who has spent four years in this place, there are very few things in law school that will leave you with the same sense of satisfaction and achievement.

Please feel free to drop by the L.S.A. and check out the photographic retrospective of my trip to Camp Chapleau, and OUR Weightlifting Centre.



Skit Nite 1996

Calling all law students,

En tant qu'étudiant(e)s de la Faculté de droit de l'Université McGill, nous croyons essentiel de s'impliquer et de contribuer au mieux-être de toute la communauté en général. À cette fin, la longue tradition du "Skit Nite" (ou en français, Mesquite Nuit) prenait naissance il y a maintenant plus de douze ans.

La Mesquite Nuit est une soirée de spectacles de divertissement mettant à profit les talents des étudiant(e)s et des autres membres de la Faculté de droit. Le but premier de l'événement est de ramasser des fonds pour des organismes de charité. L'an passé, plus de 21,000\$ ont été recueillis et remis à trois organismes de charité: nommément **Chez Doris**, **The Old Brewery Mission** et **Dans la Rue**. En raison du succès de l'an passé, nous sommes fier d'ajouter cette année **Share the Warmth** à cette liste.

Skit Nite raises its funds primarily through the publication of a program that is distributed on the night of the performance. Traditionally, our main targets have been local businesses and law firms. However, we do not like discriminating against any possible contributors. That's why we're coming to you.

We appreciate that when it comes to money, February/March is a hellish time for students, so we aren't asking you for any (although if some of you are feeling particularly wealthy and generous we will gladly accept your donations). Still, we all know that you have connections somewhere! Therefore, what we are asking from you is that each student find us a sponsor. Any amount of money would be welcome. However, for those of you that can generate more than \$25 in donations we are offering a \$5 discount on the admission price.

All you need to do is give the attached form to someone who you think might be interested and return it with a cheque (payable to the McGill Skit Nite Committee) to the LSA. Consider it your part in making this the most successful Skit Nite ever.

Oh, and one last thing, those that will contribute will get an honorary mention in the Skit Nite Program as "Honourary Biters", not to mention a lucrative tax receipt.

Thank you for your imagination, cooperation and generosity.

Sincerely,

Jody Macdonald and Ariel J. Deckelbaum
Co-Chairs, Skit Nite Fundraising Committee

.....

Name, address and telephone number of donator:

Name of wonderful student: _____

(Continued from page 6)

If you think, "Oh, that won't come up. Things have changed.", think again. Research in the Canadian Bar Association and Law Society of British Columbia reports mentioned above found that discriminatory hiring practices remain a serious problem. They further report that minority women, lesbian women and women with disabilities are the groups facing the greatest barriers to being hired in private law firms. Both reports recommend that law firms adopt guidelines for questions to be asked during articling and other job interviews and that employment equity programs be instituted. (See: *Touchstones for Change*, p.86)

In fact, the B.C. report includes a model policy which was drafted by a committee at the University of Victoria

Law Faculty. Its suggestions include:

- ask all candidates the same open and direct questions about their ability to perform

- give a clear description to every candidate of the firm's expectations

- give students sufficient notice of social invitations so that the student can make whatever arrangements are necessary to attend; and

- ask open-ended questions that allow candidates to choose whether or not they wish to make their personal backgrounds a subject of conversation. (L.S.B.C., p. A-33).

These would certainly go a long way to addressing the concerns discussed here.

If you do believe that you were subjected to discrimination in hiring, as evidenced by the questions or statements in your interview, document what was

said while it is still fresh in your mind. You may decide to pursue the matter further, at a later date, whether by approaching the firm, the relevant professional association, or a human rights commission.

Obviously responding assertively to discriminatory questions, or any other such statement for that matter, is not easy. Each of us must make a personal decision about how to react, a decision which will depend on our own comfort level and assessment of the situation. However, I do urge you to at least think about possible responses and even practice them. That way you have more options if the situation ever should arise. And... if we all assert our right not to answer such questions, sooner or later the firms will stop asking them!

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Maternal Caretakers as Workers: An Irreconcilable Contrast in Culture?

Susan Wells, Nat. IV

When I expressed some hesitation to my family about entering law school, my mother suggested that a legal education was generally a good idea, "especially since it doesn't mean that you will have to practice." Her well-meaning implication was not that law school would be a useful stepping stone to an alternate career, but rather that it was a good place to meet interesting people and that I could go on to be a well-educated, insightful, happily married home-maker and mother.

While I do not wholly share my mother's perspective on the goals of my legal education, as I approach graduation I am increasingly concerned about my ability to successfully balance a career and a family. I truly believe that I was lucky to have a mother who was always there before school, after school and whenever else I needed her over the years, and as I head off into wild world of a big law firm this year, I have to wonder what exactly I will be able to offer my family-to-be if I try to pursue a "Bay Street" or "Wall Street" lawyer's career.

Granted, I am not at all sure that I aspire to become either of these things, but I find it frustrating to think that I may not even have the option to realize the dual objectives of family and career in the same manner as my male peers. I found that two events in particular sponsored by the Faculty this year provided an opportunity to reflect on the challenges of mixing caretaking with work.

In the first Annie MacDonald Langstaff Workshop of the year, Professor Martha Fineman of Columbia University's School of Law presented both a very provoking and fundamentally disturbing view of the challenges faced by all women who attempt to combine childcare with marketplace work. She suggested that if well-off working women feel the "burden" of childcare from time to time, we should

try to imagine the circumstances under which the poor mother on welfare must find herself. Professor Fineman submits that the two solutions society has offered to date to remedy the dilemma of the poor mother, the traditional solution of marriage and the more modern recourse to maternal work, are both miserable failures from a woman's perspective. The increasing need for dual-income families and the realities of domestic violence make the traditional "nuclear family" a fairly unreliable means of guaranteeing the basic needs of caregivers and their dependents. The idea of maternal work is equally problematic if we take into account that somewhere down the line there are undercompensated women caring for society's children.

Professor Fineman argues that truly effective reform must be based on both a basic income guarantee for mothers and changes in social structures to accommodate maternal work. All women have problems with the conflict between caretaking and marketplace work; the question to be asked is whether women have a right to work and to be protected by social and fiscal policies. In response, Professor Fineman offers what she calls a fundamental truth: our market forces and social structures will not change until men want them to change. As a result, feminists are faced with what is essentially a choice between supporting symbolic notions of childcare as a "parent" issue, and dealing with the empirical reality that childcare remains a woman's issue. For example, a friend taking family law last semester told me of an informal class poll on whether they would choose stay home to care for their children, or would prefer their spouse to do so. A large majority of the women in the class indicated that they wouldn't trust their male partners to "know what to do", and would therefore choose to be the primary caregiver themselves.

The Placement Day panel "Wither Goest the Practice of Law" also provided food for thought on the more specific issue of combining family responsibilities with the practice of law. As the panelists discussed the pressures imposed by the billable hours system and an essentially client-driven schedule, it became quite clear that no one could rebut the proposal that the very nature of a thriving private law practice is fundamentally at odds with what I would conceive of as the role of a responsible caregiver. What struck me most is that the panelists seemed convinced that with the constant influx of women into the profession, it would slowly but surely be forced to accommodate women's needs. I would suggest, however, that it is somewhat contradictory to in one breath state the reality that lawyers in "big-firm" private practice are subject to the desperate needs of their clients at all hours, and in the next assert that the profession will necessarily change because of the different needs of an increasing number of women in the workplace.

Professor Fineman related an anecdote involving a major New York City law firm which I believe illustrates this point. The feminist professorship which Professor Fineman occupies at Columbia is sponsored by a big corporate law firm, which invited her to visit their offices this past fall to discuss strategies for accommodating women in the workplace. Her hosts were particularly proud of their new emergency child care facility, and made a point of including it on the firm tour. Professor Fineman told us that her reaction to this pristine, modern facility was that it is hardly an advance to provide emergency child care at the workplace for women and men who are simply unable to leave the office to take responsibility for their roles as caregivers. This perspective really struck a chord with me since my "partner-mentor" at the firm for which I

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worked last summer was a woman who was heavily involved in lobbying the firm for emergency child care services. She was having a terrible time getting the mostly male partnership on board for a service they saw as unnecessary, and two of the other female partners responded that they were very picky about their child care and so wouldn't use the service anyway. How do you think that made my mentor feel? Probably like a lousy mother who can't balance child care and work on her own as she was clearly expected to do. The larger problem seems to be that the nature of her job dictates that staying

home to deal with a child care emergency is just not a viable option.

One of the most provoking questions I am left with is to consider how women can work towards changing men's behaviour and perspective on childcare and maternal work. I do believe that, to date, childcare remains primarily a women's issue rather than a parent issue; and this will necessarily effect my career choices. I also know, however, that I have many male peers who are similarly distressed about the problem of mixing the demands of a career at a major law firm with family life. The most I can

offer right now is Professor Fineman's insight that the status quo can be seen as detrimental to both men and women, insofar as men are cheated out of the empowering aspect of raising children, while women are equally cheated by a society which creates burdened instead of empowered caregivers.

(P.S. Jody, I must say that I am more impressed than ever by your commitment to writing for the Quid - it took me forever to do this!)

International Women's Week

La Semaine Internationale de la Femme

Sarah Lugtig, LLB III

It's Women's Week!!!!!!...and Women and the Law is inviting students and faculty to join in the celebration!

Voici le programme des événements!!

Monday March 4

Lunch Time Gathering

12:30 p.m. Common Room

Bring your lunch (or buy a samosa) and your favorite readings, poems, or stories as we start the week with an informal get-together.

Mardi 5 mars

Film: Who's Counting?

16h00 Salle 101

Marilyn Waring (ancienne députée de la Nouvelle-Zélande) expose "le sexe, les mensonges, et l'économie politique globale" ("Sex, lies and global economics".) dans ce documentaire dynamique et controversé.

Wednesday March 6

Workshop on Legal Aid Reform

12:30 p.m. Room 202

Lise Ferland and Martha Shea, current and former legal aid lawyers in Montreal, respectively, and Louise Shaughnessy, lobbyist for Legal Aid reform, have been invited to participate in a panel discussion

on the serious challenges facing the legal aid system, particularly as these relate to women. The presentations and discussion will take place in both French and English.

Jeudi 7 mars

Ultra Vires

17h00 Salle 203

Alex Johnston, en première année, nous parlera de ses recherches sur la violence contre les femmes en Chine, la réponse du gouvernement et de la société. Cela nous permettra de faire une étude comparative avec le Canada.

Special Fundraising Event!!!!

Thursday March 7 "Give Us Roses Too"

National Association of Women and the Law Fundraiser

When? Show Starts at 7 p.m.

Where? Bar Jello, 151 Ontario E.

Come enjoy this "soirée culturelle" in celebration of International Women's Week! - an evening of Comedy, Poetry, Song, Dance, Performance, and, last but not least, Food! Tickets are available for \$10 in advance from Women and the Law members as well as at the door. (Contact Sarah Lugtig by Email or phone 495-3475) The National Association of

Women and the Law desperately needs financial support to continue their important lobbying efforts on many legal issues facing women today!

Friday March 8

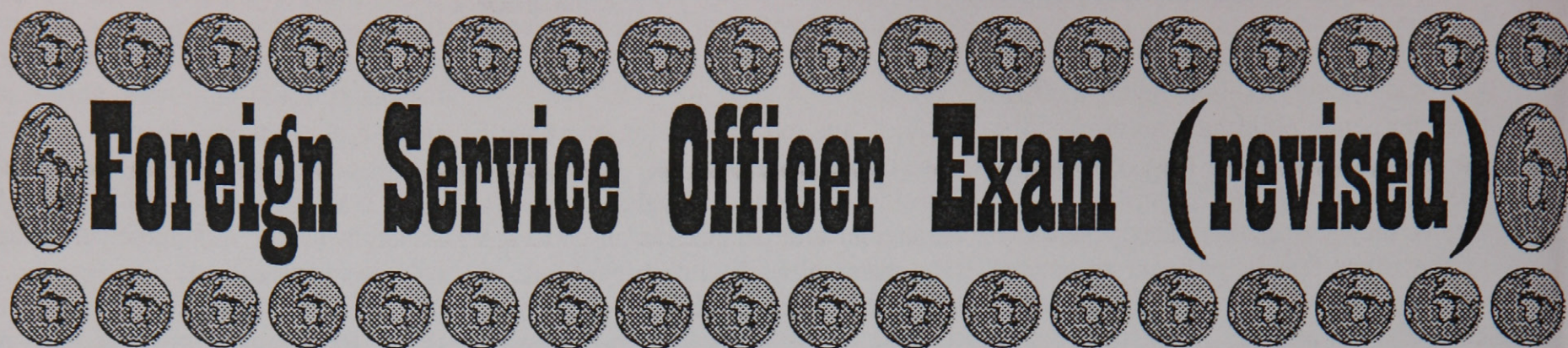
Happy Women's Day!!!!

The Association with the Black Students Network of McGill, The Black Law Students Caucus, and Women and the Law invite you to a lecture in celebration of Black History Month and International Women's Day.

Speaker: Dr. Barbara Ransby, Director of the Centre for African American Research at DePaul University in Chicago

Topic: The role of student activism in American Freedom Movements, in particular those of African Americans.

Place: Room 101. New Chancellor Day Hall McGill Faculty of Law



Foreign Service Officer Exam (revised)

Alpana Garg, BCL III

Have you always dreamed of a career in the Canadian Foreign Service, but missed the October exam? Or in the worst case scenario, didn't quite succeed? Fear not, there's always next year. Especially since the McGill Law Faculty has gotten an exclusive advance copy of the exam, through a friendly inside source in the Department...

Any similarities to McGill Law Faculty exams are not purely coincidental.

INSTRUCTIONS

Swallow question paper before reading or suffer security infraction. Answer all questions. Time limit: 4 hours. Begin immediately. Deliver to RCMP or fail security clearance.

A) FORMAL EDUCATION

1. History

Describe the history of the papacy from its origins to the present day, concentrating especially but not exclusively, on its social, political, economic, religious, and philosophical impact on Europe, Asia, America and Africa. Be brief, concise, and specific.

2. Political Science

There is a red telephone on the desk beside you. Start World War III. Report at length on its socio-political effects, if any.

3. Economics

Develop a realistic plan for refinancing the national debt. Trace the possible effects of your plan in the following areas: Cubism, the Donatist controversy, the wave theory of light. Outline a method from all possible angles. Point out the deficiencies in your

thesis as demonstrated in your answer to the last question.

4. Culture

Write a piano concerto. Orchestrate and perform it with flute and drum. You will find a piano under your seat.

5. Communications

Take a position for or against truth. Prove the validity of your position.

6. Philosophy

Sketch the development of human thought; estimate its significance. Compare with the development of any other kind of thought.

7. General Knowledge

Discuss. Be objective and specific.

B) ABILITIES

1. Resourcefulness

You have been provided with a razor blade, a piece of gauze, and a bottle of Canadian Club. Remove your appendix. Do not suture until your work has been inspected. You have fifteen minutes.

2. Innovativeness

Estimate the sociological problems which might accompany the end of the world. Construct an experiment to test your theory.

3. Initiative

The disassembled parts of a high-powered rifle have been placed on your desk. You will find an instruction manual, printed in Swahili. In ten minutes a crazed Sikh militant will be admitted to the room. Take whatever action you feel appropriate. Be prepared to justify your decision.

4. Creativity

Create life. Estimate the differences in subsequent human culture if this form of

life had developed 500 million years earlier, with special reference to its probable effect on the Canadian parliamentary system. Prove your thesis.

5. Interpersonal Relations

2500 rioting invisible minorities are storming your Embassy. Calm them. You may use any ancient language except Latin and Greek.

6. Analytical Skills

Based on your knowledge of their works, evaluate the emotional stability, degree of adjustment, and repressed frustrations of each of the following: Alexander the Great, Ramses II, Attila the Hun, and Lucretia Borgia. Support your evaluation with quotations from each person's work, making appropriate references. It is not necessary to translate.

7. Potential for Advancement

You've prepared a report for your superior. The success of your presentation means promotion or a posting to Burkina Faso. In the middle of your proposal your superior leans over and spits into your coffee. You...

- a) Explain that you prefer your coffee black
- b) Ask him if he has any communicable diseases
- c) Pee in his outbasket.

Good Luck !

Judge, But Don't Pre-Judge

Katia Opalka, BCL III

"Would I have had a 'reasonable doubt', had that boy (charged with assaulting a police officer) been white [like me]?" This is the kind of little test one might envisage a judge using in order to perfect his or her sense of objectivity in judging. The test involves going beyond the racial identity of the accused, as it were, to that of the judge. Instead of endeavouring to know more about the situation of the accused, in an attempt to be more just, the judge is gauging the influence of his or her own background on the judgment process itself. Once the test is completed, the task of judging can continue as usual; he or she will judge without pre-judging.

On February 14th Professor Richard Devlin, here on sabbatical from Dalhousie, presented highlights from a paper he is working on in a talk entitled "We Can't Go On With Suspicious Minds: Judicial Bias and Racialized Perspective". Professor Devlin explained to the large group gathered in Room 202 that he is concerned about the way race might be factored in to a finding of judicial bias.

At McGill we learn about judicial bias in J.I.C.P. An example would be a case where your lawyer has annoyed the judge so much (unnecessary motions, unnecessary drama, etc.) that the judge has actually expressed a strong dislike is his or her regard. You might worry that your case will suffer if the judge cannot see beyond his or her dislike of your lawyer.

The tests for judicial bias span the possibility/probability continuum, with the U.K. now favouring the probability test: Would a reasonable person hearing the judge's comments

about your lawyer apprehend a real likelihood of bias? The other test, which is falling out of favour, postulates that "even a suspicion" of bias is enough to get the case re-tried by another judge.

I can see how the "suspicion" test is flawed: whose [subjective] "suspicion" should be enough to call into doubt a judge's objectivity? We trust judges with the making of decisions that ultimately cause one party to suffer – suffer loss of a child, loss of liberty, loss of money. We trust that the decision is founded upon legally-acceptable reasons, and we expect that the "losing" side will probably be unhappy about, and critical of, the outcome. That's why we don't normally set aside judgments just because the "losing" side harbours a "suspicion" of judicial bias.

When we allow a "suspicious mind" to upend a judgment, we erode the ground on which judges can base their reasons, and we back them into a corner of silence. Socrates used to say that you must (verbally) reason your way toward the just outcome. If a judge says that research into police behaviour reveals a consistent trend of discriminatory behaviour towards black youth, and that the behaviour of the plaintiff is consistent therewith, I do not think that the judge has failed Socrates' logical reasoning test, nor do I think that Socrates would have left the appreciation of the objectivity of the judge's explanation to the plaintiff himself.

Professor Devlin's presentation, which was made all-the-more memorable by an analysis of Gustav Klimt's "Jurisprudence" (projected onto the wall of Room 202) showed up the suspiciously odd coincidence of a finding of judicial bias in a Nova Scotia case (*R. v. R.(D.S.)*) involving a black youth charged with assault of a white police officer and acquitted by a black judge.

The judge denied any judicial bias. Dismissing a journalist's application for release of the electronic tape-recording of the proceedings (prior to an official review of the decision), Sparks, J.F.C., noted that "[I]n the unique and troubling circumstances of this case if the concern is about the court commenting, in the course of an adjudication, about the treatment of an African-Canadian accused person; sadly this cannot be viewed as novel. There has been, and no doubt will continue to be, cases where the courts, rightfully in my view, examine and criticize when necessary the investigation of a police officer, and equally so, if not more so, when the investigation is of a person from a group which has historically endured discriminatory treatment in the justice system. [...] this is one of the fundamental and necessary functions of the judicial branch of government and a cornerstone of judicial independence"; (1994), 136 N.S.R. (2d) 299 at 309; 388 A.P.R. 299. Would such comments strike a reasonable person as signalling bias, or is the court simply choosing, in its discretion, to take notice of a reality which has heretofore been ignored?

In conclusion, I would like to draw attention to an element which remained absent from Professor Devlin's analysis: gender. Odd, given that it was an Annie Macdonald Langstaff Workshop, and that Professor Devlin is the first man on our list of distinguished speakers. The Nova Scotia judge who was found to be biased is a black woman. I would like to suggest that gender (how people of either sex react to women judges, and how likely they are to consider themselves "above the law" made by a woman judge) must be studied and understood in order to make sense of current trends in the scrutiny of judges.

Top 10

By Steven Leitman, BCL II

Top Ten Mooting Tactics:

10. Present your case in Elizabethan English.
9. Boo and hiss whenever your opponent makes a good point.

8. Use the word "dude" a lot.
7. Make the judge an offer he can't refuse.
6. Match every one of your cogent arguments with an irrelevant attack on the other party.
5. Wear tails.
4. During the rebuttal, saw your mooting partner in half.
3. Play Jedi mind tricks on the judges (Obi-wan was a bitchin' litigator).
2. Sing the part about asking for costs.
1. Be fashionably late.

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WEDNESDAY, MARCH 13TH, 1996 12.30 pm

Moot Court, McGill Faculty of Law
3644 Peel Street